THE HON'BLE Mr. JUSTICE N.V. RAMANA

Writ Petition No.21818 of 1996

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Dated: January 31, 2006

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Between:

Abdul Jameel Khan, S/o. Abdul Jaleel Khan,

aged about 47 years, Ex-Driver, E.32462,

C/o. Hanuman Oil Centre, (Motor Spare Parts)

National High Way Road,

Mancherial, Adilabad District.

… Petitioner

And

The Managing Director, A.P. State Road

Transport Corporation, Hyderabad,

and three others.

… Respondents

Order:

Petitioner seeks Mandamus directing the respondents to take back the petitioner into service as Driver with all consequential benefits like that of pay, arrears of pay, increments, seniority etc., duly canceling petitioner's resignation letter dated 23-12-1981.

2. Petitioner, who worked as apprentice Driver in the respondent-Corporation on daily wages, claims that his services as such were regularized with effect from 01-10-1969 and that he worked in the same category upto 01-02-1982. It is the case of the petitioner that his wife suffered lunacy and for financial assistance for her medical treatment, he requested an amount of Rs.20,000/- from the respondents, but he was informed that he may not get any financial assistance and suggested him to resign, so that his account would be settled and he would get the amount required. He alleges that respondents assured him that after his wife's treatment, he would be taken back into service. It is stated that having no alternative, petitioner was compelled to tender his resignation and the same was accepted by Respondent No.1 on 01-02-1982. It is further stated that the petitioner, based on the alleged assurance given by the respondents, approached the respondents through letter dated 12-12-1989 to permit him to withdraw his resignation, but to no avail. Having lost hope, petitioner alleges to have issued legal notice dated
29-08-1992, but no reply has been received from the respondents. Hence, he filed this writ petition.

3. Heard the learned counsel for the petitioner and the learned Standing Counsel.

4. Even though the writ petition is of the year 1996, no counter affidavit has been filed by the respondents. However, learned Standing Counsel for the respondent-Corporation submits that the petitioner had voluntarily tendered his resignation in the year 1982, and after a gap of more than seven years in the year 1989, requested to take him back into service, which was rejected. Thereafter, after lapse of eight years, he filed the present writ petition. Further, it is the case of the respondent-Corporation that they never assured him that the petitioner would be taken back into service after his wife's treatment. Hence, his case was rejected. It is, thus, prayed to dismiss the writ petition.

5. Admittedly, petitioner has tendered his resignation to the respondents voluntarily for his own personal reasons. He submitted his resignation in the year 1982. The respondents accepted the same and retired him from service. Later, in 1989, he approached the respondents to take him back into service, which was rejected by the respondents. Thereafter, after lapse of nearly eight years, in 1997, he filed the present writ petition. Even though the respondents did not file counter, at this belated stage, i.e. after lapse of nearly 23 years from the date of his resignation, this Court cannot direct the respondents to take the petitioner back into service, and more so by now, he must have attained the age of superannuation for as on the date of filing the writ petition, he was aged 47 years.

6. In the result, the writ petition is liable to be dismissed, and it is accordingly dismissed. However, if the petitioner is entitled to any monetary benefits from the

respondents, it is for him to approach the respondents making a request. The dismissal of the writ petition would not come in the way of the respondents to consider the case of the petitioner for payment of monetary benefits, if the petitioner is entitled to any. No costs.

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N.V. RAMANA, J.

January 31, 2006

MRR